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March 10, 2022

**Via ECF**

The Honorable Joseph C. Spero  
U.S. District Court, Northern District of California  
San Francisco Courthouse, Courtroom F – 15th Floor  
450 Golden Gate Avenue  
San Francisco, California 94102

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Re: *Senne, et al. v. Office of the Commissioner of Baseball, et al.*,  
No. 3:14-cv-00608-JCS

Dear Judge Spero:

The parties in the above-referenced matter respectfully submit this joint letter to request the Court's guidance with respect to the joint stipulation of undisputed facts regarding certain establishments for the seasonal and recreational amusement exemption. The stipulation is due today. The parties have met and conferred, and there remains one area of disagreement on which we need the Court's guidance in order to finalize a joint stipulation in accordance with the Court's February 16, 2022 Order.

It is Defendants' position that the Court requested all undisputed facts bearing on the establishment inquiry so that the Court can determine whether having "something short of" a trial regarding this issue is possible and to "see if there is a solution, either in favor of the plaintiff or the defendant, on each of these spring training facilities under the summary judgment standard." *See* Feb. 16 Hearing Tr. at 53. Plaintiffs' position is that the universe of undisputed facts must come from the parties' respective summary judgment submissions. *See* Feb. 16 Hearing Tr. at 54 ("[A]re you saying it needs to be based on the record that's been submitted or are you envisioning submitting something extra? The Court: Oh, nothing new. Nothing new."). The parties disagree as to whether undisputed facts adduced during discovery—but were not part of the parties' summary judgment submissions—can be included in the joint stipulation. In order to meet today's deadline, in the event that we do not hear from the Court, the parties will file a joint stipulation of undisputed facts based only on the summary judgment record. If the Court intended to consider all undisputed facts adduced during discovery, including undisputed facts not part of the parties' summary judgment submissions, the parties will file an amended stipulation within forty-eight (48) hours of being so advised. If the Court would like to hear from the parties on this issue, the parties can either submit a short joint letter (not to exceed three pages) or make themselves available for a conference (telephonic or otherwise). We thank the Court for its prompt attention to this matter.



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Respectfully submitted,

PEARSON, SIMON & WARSHAW, LLP

/s/ Bobby Pouya

BOBBY POUYA,  
*Interim Co-Lead Counsel for Plaintiffs*

PROSKAUER ROSE LLP

/s/ Elise M. Bloom

ELISE M. BLOOM  
*On behalf of Defendants*



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**Filer Attestation**

I, Elise M. Bloom, am the ECF user whose identification and password are being used to file this joint letter brief. In compliance with Local Rule 5-1(i)(3), I hereby attest that the counsel listed above concur in this filing. I will maintain an executed copy of this filing in our files that can be made available for inspection upon request.

Dated: March 10, 2022

/s/ Elise M. Bloom

Elise M. Bloom